IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

Con.Case(C).No. 23 of 2007(S)

JUDGEMENT IN WPC.25152/2006 Dated 25/09/2006

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PETITIONER:

R. GOVINDASWAMI, AGED 58 YEARS,
S/O. RANGASWAMI, AGRICULTURIST, 3/49,
DEVANGAPURAM, CHITTUR, PALAKKAD.

BY ADV. SRI.RENJITH THAMPAN
SMT.P.A.ANITHA

RESPONDENTS:

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1. KURIAKOSE,
(AGE AND S/O. NOT KNOWN TO THE PETITIONER),
SECRETARY, CHITTUR-THATHAMANGALAM MUNICIPALITY,
CHITTUR, PALAKKAD DISTRICT.

ADDL. 2. PARAMESWARAN, S/O.NARAYANAN CHETTIAR,
3/80, DEVANGAPURAM, CHITTUR, PALAKKAD.

ADDL. 2ND RESPONDENT IMPLEADED SUO MOTU AS PER ORDER DT.8.6.07 IN THE CONT. CASE.

R1 BY ADV. SRI.A.SREERAMAKRISHNAN, SC
R2 BY ADV. SRI.R.PARTHASARATHY
SRI.C.JAYACHANDRAN

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

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CONT. CASE (C)No.23 OF 2007

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DATED THIS THE 20TH JUNE, 2007

J U D G M E N T

The grievance of the petitioner is that the directions in Annexure-I judgment have not been complied with by the Municipality.

2. Heard Sri.Ranjith Thampan, counsel for the petitioner, Sri.A.Sreeramakrishnan, Standing Counsel for the Chittur Municipality and Sri.Jayachandran, counsel appearing for the additional 2nd respondent.

3. Having regard to the submissions, I am of the view that it will be too early to initiate contempt action against the 1st respondent in this case. It is admitted before me that O.S.No.18 of 2007 is pending before the Chittur Munsiff's Court and in that suit, I.A.46 of 2007, an application for measurement of the property is already allowed by the learned Munsiff. I am also informed that I.A.388 of 2007 filed by the petitioner seeking his impleadment as a party in that suit is pending. So also, I.A.45 of 2007, an application for temporary injunction is also pending. I feel that in order to have a final quietus to the issue as to whether the additional 2nd respondent has trespassed

upon the municipal thodu and also whether the present petitioner himself has trespassed into the thodu, as the Standing Counsel for the Municipality now alleges, it is necessary to have a measurement of the properties conducted at the earliest by the commissioner appointed by the court, with the assistance of the Taluk Surveyor.

Under these circumstances, I dispose of the Contempt of Court Case issuing the following directions:-

The Munsiff, Chittur will immediately allow I.A.388 of 2007 and bring the petitioner as an additional defendant in the suit. The learned Munsiff will issue appropriate directions to the advocate commissioner already appointed and also to the Taluk Surveyor concerned to ensure that the measurement is conducted at the earliest and a plan submitted without delay on the basis of the orders already passed in I.A.No.46 of 2007. The commissioner and the surveyor should be directed to have the measurement conducted in the presence of the petitioner, the additional 2nd respondent and also the officials of the Chittur-Thathamangalam Municipality. The learned Munsiff will ensure that the report and plan are submitted at the earliest and at any rate within six weeks of receiving copy of this judgment. Since I feel that the report and plan to be submitted by the advocate commissioner

will be of considerable relevance in the matter of the application for injunction, I direct the learned Munsiff to take a decision in the application for injunction within two weeks of receiving the commissioner's report and plan.

(PIUS C.KURIAKOSE, JUDGE)

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